

**MINUTES**  
**PRIVATE PROBATION PROVIDER BOARD**  
**July 27, 2004 – 10:30 A.M.**  
**Room 451 - Fourth Floor - Heber Wells Bldg.**  
**160 East 300 South, Salt Lake City, Utah**

**CONVENED: 10: 32 A.M.**

**ADJOURNED: 11:47 A.M.**

**PRESENT:**

Clyde Ormond, Bureau Manager  
Marty Simon, Board Secretary  
Board Members:  
Larry McDonald    James Rowley  
Kathy Ockey    Sylvester Daniels

**ABSENT:**

Sandra Thackeray

**GUESTS:**

Blaine Ferguson and Mitchell Jones, Assistant Attorney Generals; Dee Thorell, Division Investigator; Debra Hendren, Bureau Manager; Laura Poe, Assistant Division Director.

**TOPICS FOR DISCUSSION:**

**DECISIONS AND RECOMMENDATIONS**

**ADMINISTRATIVE BUSINESS:**

Swear in new board member

Mr. Ormond administered the Oath of Allegiance to Mr. Daniels.

Minutes

The Board approved the minutes of the April 1, 2004 board meeting as written.

**NEW BUSINESS:**

Conflict of Interest

Mr. Ormond stated the Division had recently become aware that there might be a misunderstanding within the profession regarding the standard of conduct required. This can occur when a private probation provider is providing therapy services or drug, tobacco, or alcohol rehabilitation services in conjunction with the probation services. A letter was sent out, on June 8, 2004, regarding this to all licensed private probation providers in Utah. The Division has received several complaints from individuals in the profession objecting to the things stated in the letter.

Mr. Ormond quoted from the "Unprofessional Conduct" section in 58-50-2-(5), of the Private Probation Provider Licensing Act, regarding the impartiality of interests. There are situations that sometimes occur when the private probation provider

is part of a business that also offers therapy to the probationer. There is a possibility that the private probation provider might recommend to a judge that additional therapy sessions are needed so they can obtain additional financial gain. Mr. McDonald stated he thought the intent of this part of the statute was aimed toward those who were allowing probationers to skip meetings in return for gifts. Mr. Daniels stated he thought the problem of the potential conflict would be with private probation providers who are also licensed as drug & alcohol counselors. Ms. Ockey doesn't think any private probation provider should supervise a probationer and also provide counseling at the same time.

The courts don't seem to be aware of the conflict of interest it can create when they request the private probation provider to provide both services. Mr. Rowley stated there are judges who prefer to have a private probation provider also provide the DUI rehabilitation classes. Mr. Jones stated there would be a general meeting of the court judges in October that would provide an opportunity to make them aware of the conflict of interest problem. Mr. Ormond wondered if the courts should be the ones to spearhead a change to the statute if they want the private probation provider to provide both services.

Mr. Ormond inquired whether the courts would stop using the private probation provider who offers the multiple services if they are made aware of this. Mr. Ferguson stated it seems to be a matter of educating the private probation providers and the courts to avoid the conflict of interest. Mr. Daniels stated it is just an oversight on the court's part but the judges will abide by the statute.

Mr. Daniels stated the topic of the possibility of a conflict of interest had been raised in a court recently. Currently the courts are compiling a list of private probation providers, who are dually licensed as therapists, and are contacting them about this. Mr. Rowley asked if it is the Division's intent to find those who are providing both services, as required by a judge, and inform them it is against the statute. Mr. Ormond stated it is the Division's responsibility to regulate this according to the statute.

Mr. Jones asked for an approximate number of the fifty licensed private probation providers who are providing

multiple services. Mr. McDonald stated it was approximately half of that number. Mr. Jones inquired how the supervision fee is set. Mr. McDonald stated it is usually approximately \$45-\$50 per person and is paid monthly.

Mr. Ormond inquired whether we really have a problem with the conflict of interest and if we try to enforce this can we? Generally our investigators don't actively seek violations. He has received some calls from companies who are providing private probation as well as other services. They are complaining they will be put out of business if they cease to offer these other services

Mr. Jones remarked about the statement made earlier that in a rural area there was not enough business as a private probation provider to maintain a business only doing that. Mr. Ferguson asked if there are other resources that the courts could use in the rural areas to provide the therapy. Ms. Ockey stated absolutely not. They discussed the possibility of amending the law to include an exemption for those in the rural areas to be able to offer both services. However, they decided against this.

Mr. Rowley stated he doesn't think that a private probation provider who works for a company that provides other services constitutes unprofessional conduct. Mr. Jones said he thinks it would only be a conflict of interest if the private probation provider is the owner of the company. Ms. Poe stated it would only be unprofessional if the private probation provider exceeded what the Judge required. It was discussed whether this should be defined by rule. Mr. Jones wondered if this would make the rules too complicated.

Division Opinion  
re: Private Probation Responsibilities

Mr. Rowley believes if we enforce this conflict of interest it will adversely affect the profession. He asked how we could enforce this matter if the court judge is requiring them to provide both probation and counseling. It was decided to let it be known that the Division's stance is going to be to go by the statute and if the profession objects then they must take it to Legislature.

Professional and Ethical Standards

It is the responsibility of the private probation provider to tell the judges when there is a conflict of interest.

**NEXT MEETING:**

To be determined

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DATE APPROVED

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CHAIRPERSON, PRIVATE  
PROBATION PROVIDER BOARD

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DATE APPROVED

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BUREAU MANAGER, DIVISION OF  
OCCUPATIONAL & PROFESSIONAL  
LICENSING